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EXAMINER
WONG, ERIC TAK WAI

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3693	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/517,344	PEICHL ET AL.
	Examiner	Art Unit
	ERIC T. WONG	3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 December 2004*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-27* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *09 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Double Patenting

1.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claim 1 provisionally rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claim 1 of copending Application No. 10/601170.

Although the conflicting claims are not identical, they are not patentably distinct from each other

because both claims recite a system comprising a central processing unit; input/output means;

at least one database containing human resource data relating to human resource objects; and

a commitment engine; said commitment engine retrieving human resource data from said at

least one database and evaluating a human resource budget for a given human resource object

for a predefined period of time based on said retrieved human resource data, said commitment

engine further storing a result of said evaluation, monitoring said human resource budget during

said predefined period of time. Claim 1 of the '170 application additionally recites providing an

automatic notification to a user based on the monitoring, which is an obvious difference. This is

a _provisional_ obviousness-type double patenting rejection because the conflicting claims have

not in fact been patented.

3.   Claims 14 and 21 provisionally rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 16 and 23, respectively, of copending

Application No. 10/601170. Although the conflicting claims are not identical, they are not

patentably distinct from each other because both the claims recite methods and computer

program products for retrieving human resource data and evaluating a human resource budget

for a given human resource object for a predefined period of time based on said retrieved

human resource data; and storing and monitoring said human resource budget during said

predefined period of time.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-2, 4, 13-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Haines

(US Patent Application Publication No. 2003/0033211 A1) in view of Ross (US Patent No.

6,026,390 A).

6.   Examiner notes that certain components of the system claims are defined by functional

language (eg. module for…). The limitations are therefore only given weight to the extent that

the prior art is or is not capable of performing the recited functions.

7.   Regarding claim 1, Haines teaches a central processing unit; input/output means; at least on database containing data relating to objects (figure 5 elements 504, 508, 530). Haines further teaches evaluating a budget for a given object for a predefined period of time based on retrieved data from the database; storing a result of the evaluation, monitoring the budget during the predefined period of time, and providing an automatic notification to a user based on the monitoring (see paragraphs 139-140). Haines does not teach using the invention to monitor a human resource budget. Ross teaches budgeting for human resources (column 3 lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the budget monitoring of Haines to include budgeting for human resources. One skilled in the art would have been motivated to make the modification since it is the application of a known technique to a known method ready for improvement to yield predictable results, the predictable results being ascertaining the difference between budgeted expenses and actual expenses.

8.   Regarding claim 2, Haines teaches retrieving objects from said at least one database, collecting data from said at least one database, and writing updated budget data to said at least one database.

9.   Regarding claim 4, Haines does not teach using human resource data consisting of position data and individual data. Ross teaches using human resource data consisting of position data and individual employee data (see figure 6 "Emp" table). Examiner notes that applicant also admits that human resource data administration often involves maintaining a database with personnel data such as employee number, position, salary, possible benefits (gratuities, bonus payments, stock options etc.) salary history, pension information etc. (see paragraph 3 of specification). As discussed above, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the budget monitoring of Haines to include budgeting for human resources, further using human resource data consisting of

position data and individual data. One skilled in the art would have been motivated to make the

modification since it is the application of a known technique to a known method ready for

improvement to yield predictable results, the predictable results being ascertaining the

difference between budgeted expenses and actual expenses.

10.   Regarding claim 13, Haines does not teach re-evaluating a budget based on recognized

changes to data that are relevant to the budget. Ross teaches re-evaluating a budget based on

recognized changes to data that are relevant to the budget (see column 3 lines 55-65). It would

have been obvious to one of ordinary skill in the art at the time of invention to modify the budget

monitoring system of Haines further to include re-evaluating the budget based on recognized

changes to data that are relevant to the budget as taught by Ross. One skilled in the art would

have been motivated to make the modification for the benefit of budgeting accuracy. Further, it

would have been obvious to automate the process in view of *In Re Venner* (120 USPQ 192,

194; 262 F2d 91 (CCPA 1958)).

11.   Regarding claims 14 and 21, Haines teaches retrieving data and evaluating a budget for

an object for a predefined period of time based on said retrieved data; and storing and

monitoring said budget during said predefined period of time (see [0140]). Haines does not

teach applying the invention to human resource budgeting. Ross teaches budgeting for human

resources (column 3 lines 55-65). It would have been obvious to one of ordinary skill in the art

at the invention to have modified the data retrieval, evaluation, storage and monitoring of Haines

to include budgeting for human resources as taught by Ross. One skilled in the art would have

been motivated to make the modification since it is only applying a known technique to a known

method ready for improvement to yield predictable results, the predictable results being knowing

the difference in what has been spent versus what has been budgeted.

12.   Regarding claims 15 and 22, Haines teaches reserving an amount of money according to said evaluated data (budget).

13.   Regarding claims 16 and 23, Haines teaches continuously adapting said reserved amount of money by subtracting one or more effected payments (remaining budget).

14.   Regarding claims 17 and 24, Haines teaches performing, based on a budget preparation, a reservation step (budget), then performing a pre-commitment step based only on retrieved data (budget), and then performing a commitment step for objects based only on retrieved object data (remaining budget), and a subsequent adaptation of the one or more results of said respective prior steps (remaining budget).

15.   Regarding claims 18 and 25, Haines teaches reserving an amount of money for said predefined period of time based on said results of said commitment step (remaining budget).

16.   Regarding claims 19 and 26, Haines teaches continuously adapting said results of said pre-commitment and commitment steps based on changes to said data (remaining budget).

17.   Regarding claims 20 and 27, Haines teaches continuously adapting said results of said pre-commitment and commitment steps based on changes to said object data (((0139-0140], remaining budget).

18.   Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Haines in view of Ross, further in view of Williams (US Patent No. 5,600,554).

19.   Regarding claim 3, Haines teaches said commitment engine further comprising a creator module for creating budget control documents (Figure 14, elements 1406 and 1420), a transfer module for transferring budget data to an exterior accountancy (see [0140]), said administrator module administering data flow to and from said creator and said transfer modules.   Haines

does not teach an error handling module for handling errors and triggering workflows to

overcome an error.   Williams teaches handling errors and triggering workflows to overcome an

error (column 7 lines 9-15). Therefore, it would have been obvious to one of ordinary skill in the

art at the time of invention to have modified the budget monitor of Haines to include an error

handling module for handling error and triggering workflows to overcome an error as taught by

Williams. One skilled in the art would have been motivated to make the modification because it

is useful to correct errors.

20.   Claims 5-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Haines in view

of Ross, further in view of Official Notice.

21.   Regarding claim 5, Haines and Ross do not teach calculating an individual employee

salary based on said retrieved human resource data. Official Notice is taken that it would have

been obvious to one of ordinary skill in the art at the time of invention to have modified the

invention to include calculating an individual employee salary based on retrieved human

resource data (eg. calculating a salary using an hourly rate). One skilled in the art would have

been motivated to make the modification since it is useful to calculate expenses for different

periods of time, or different budgeting periods.

22.   Regarding claims 6 and 7, Haines teaches monitoring a budget during a period of time

and providing an automatic notification to a user based on said monitoring. Haines does not

teach combining several of individual employee salary budgets into a department or cost center

budget. Ross teaches combining several of individual employee salary budgets into a

department or cost center budget (see column 3 lines 55-65). It would have been obvious to

one of ordinary skill in the art at the time of invention to modify the budget monitoring system of

Haines further with combining several of individual employee salary budgets into a department or cost center budget. One skilled in the art would have been motivated to make the modification because categorization allows for budgeting more efficiently.

23.   Regarding claim 8, Haines teaches monitoring the budget during said period of time.

24.   Regarding claim 9, Haines does not teach wherein said monitoring involves a comparison of said calculated individual employee salary budgets with one or more actually effected salary payments. Ross teaches comparing employee salary budgets with one or more actually effected salary payments (column 3 lines 55-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the budgeting system of Haines further with comparing individual employee salary budgets with one or more actually effected salary payment. One skilled in the art would have been motivated to make the modification for the benefit of determining those expenses which exceed the budgeted amounts.

25.   Claims 10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Haines in view of Ross, further in view of Visual Rota ("Cash Budgets & Budgetary Control").

26.   Regarding claims 10-11, neither Haines nor Ross explicitly teach calculating one or more position cost simulations for one or more employee positions based on position data and calculating one or more employee cost simulations for an existing employee based on individual employee data. Visual Rota teaches calculating one or more position cost simulations for one or more employee positions based on position data and calculating one or more employee cost simulations for an existing employee based on individual employee data (see "Indirect Costs", "Using Budgetary Control in Visual Rota"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Haines further with including one or

more position cost simulations or one or more employee cost simulations, the sum of the

simulations being the potential or actual budget. One skilled in the art would have been

motivated to make the modification because simulations are an effective way at projecting

costs.

27.   Regarding claim 12, Haines teaches spending based on a difference between said

potential budget and an actual budget. Haines does not teach hiring for human resource

positions only while under the human resource budget. Ross teaches budgeting for employees

with a human resource budget. Therefore, it would have been obvious to one of ordinary skill in

the art at the time of invention to modify the spending based on a difference between potential

budget and actual budget of Haines to be limited to a human resource budget for employees as

taught by Ross. One skilled in the art would have been motivated to make the modification in

order to avoid overspending the budget.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/   ERIC T. WONG
Supervisory Patent Examiner, Art Unit 3693   Examiner
                                                                                        Art Unit 3693

September 17, 2008